

Chapter 375:**NO ADVERSE ENVIRONMENTAL EFFECT STANDARD OF THE SITE LOCATION LAW**

SUMMARY: These regulations describe the scope of review of the Board in determining a developer's compliance with the "no adverse effect on the natural environment" standard of the Site Location Law (38 M.R.S.A. Section 484(3)); the information which shall be submitted, when appropriate, within an application for approval; and, the terms and conditions which the Board may impose on the approval of an application to ensure compliance with the standard.

NOTE: In determining whether the developer has made adequate provision for fitting the development harmoniously into the existing natural environment and that the development will not adversely affect existing uses, scenic character, or natural resources in the municipality or in neighboring municipalities, the Board has identified several specific areas of concern which are dealt with in detail below.

1. No Unreasonable Adverse Effect On Air Quality

- A. Preamble.** The Board recognizes that point source emissions from certain types of commercial and industrial developments and solid waste disposal facilities and non-point source emissions deriving from industrial, commercial, and governmental developments can have an unreasonable adverse effect on air quality.
- B. Scope of Review.** In determining whether the proposed development will have an unreasonable adverse effect on ambient air quality, through point or non-point sources of chemical pollutants or particulate matter, the Board shall consider all relevant evidence to that effect, such as evidence that:
- (1) The best practicable treatment of point sources of air pollution will be utilized and that point source emissions meet state ambient air quality standards and state emissions standards.
 - (2) The amount of air pollution produced from either point or non-point sources of air emissions will be consistent with the Board's "Policy on Air Quality Use," adopted March 28, 1979.
- C. Submissions.** Applications for approval of proposed industrial, commercial and governmental developments and solid waste disposal facilities shall include evidence that affirmatively demonstrates that there will be no unreasonable adverse effect on air quality, including information such as the following, when appropriate:
- (1) Evidence that an Air Emission License has been or will be obtained.
 - (2) Evidence that increased traffic generated by the development will not significantly effect the ambient air quality. Modeling of the effect of non-point sources of air pollution on ambient air quality may be requested.

14. No Unreasonable Effect on Scenic Character

- A. Preamble.** The Board considers scenic character to be one of Maine's most important assets. The Board also feels that visual surroundings strongly influence people's behavior.
- B. Scope of Review.** In determining whether the proposed development will have an unreasonable adverse effect on the scenic character of the surrounding area, the Board shall consider all relevant evidence to that effect, such as evidence that:
- (1) The design of the proposed development takes into account the scenic character of the surrounding area.
 - (2) A development which is not in keeping with the surrounding scenic character will be located, designed and landscaped to minimize its visual impact to the fullest extent possible.
 - (3) Structures will be designed and landscaped to minimize their visual impact on the surrounding area.

NOTE: The following are GUIDELINES for the landscaping of parking lots, which are structures pursuant to 38 M.R.S.A. Section 482(6) (B).

- (a) Lighting will be shielded from adjacent highways and residential areas.
- (b) Curbed planting strips will be utilized in parking areas of 2 acres or more. Planting strips will be a minimum of ten (10) feet wide and spaced between every second double bay parking aisle or 200 feet, whichever is less.
- (c) When the parking lots are adjacent to a residential use, landscaping and/or architectural screens will be utilized to provide an effective perimeter separation area between property lines and the edge of the pavement and/or structures. There will be a minimum setback of fifteen (15) feet from the property line. The Board may require a similar provision when the parking lot is adjacent to other land uses.
- (d) Planting and maintenance program specifications will be developed to provide the earliest establishment of landscape materials and their maintenance.
- (e) Planting specifications:
 - (i) Shrubs will be planted with a 24" minimum size for those specified by spread.
 - (ii) Shrubs will be planted with a 36" minimum size for those specified by height.
 - (iii) Shade trees will be highcrowned species with ascending or lateral branching habit indigenous to the area, tolerant to existing soils and urbanized conditions, two-inch minimum caliper measured six inches up from the base, and planted a maximum of 30' on center.

- (iv) Flowering and evergreen trees will be a minimum of 7' tall and planted a maximum of 20' on center.
- (v) Selections for ground cover will reflect the project's function, expected foot traffic, exposure, and maintenance program.
- (f) Provisions will be made to supply water to planted islands and other vegetated areas.
- (4) The plans for the proposed development provide for the preservation of existing elements of the development site which contribute to the maintenance of scenic character.
- C. Submissions.** Applications for approval of proposed developments shall include evidence that affirmatively demonstrates that there will be no unreasonable adverse effect on the scenic character of the surrounding area, including information such as the following, when appropriate:
 - (1) Sketches of the proposed development indicating how the development fits into the scenic character of the area.
 - (2) Landscaping plans for minimizing the visual impact of the parking lots, mining operations and other types of developments.
- D. Terms and Conditions.** The Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the proposed development will have no unreasonable adverse effect on scenic character, such as requiring that:
 - (1) Illumination of the development be limited.
 - (2) Vegetative or architectural screens be established.

15. Protection of Wildlife and Fisheries

- A. Preamble.** The Board recognizes the need to protect wildlife and fisheries by maintaining suitable and sufficient habitat and the susceptibility of certain species to disruption and interference of lifecycles by construction activities.
- B. Scope of Review.** In determining whether the developer has made adequate provision for the protection of wildlife and fisheries, the Board shall consider all relevant evidence to that effect, such as evidence that:
 - (1) A buffer strip of sufficient area will be established to provide wildlife with travel lanes between areas of available habitat.
 - (2) Proposed alterations and activities will not adversely affect wildlife and fisheries lifecycles.
 - (3) There will be no unreasonable disturbance to:
 - (a) High and moderate value deer wintering areas.

- (b) Habitat of any species declared threatened or endangered by the Commissioner, Maine Department of Inland Fisheries and Wildlife or the Director of the U.S. Fish and Wildlife Service.
 - (c) Seabird nesting islands;
 - (d) Significant vernal pools;
 - (e) High and moderate value waterfowl and wading bird habitat; and
 - (f) Shorebird nesting, feeding, and staging areas.
- C. Submissions.** Applications for approval of proposed developments shall include evidence that affirmatively demonstrates that the developer has made adequate provision for the protection of wildlife and fisheries, including information such as the following, when appropriate:
- (1) The location of natural buffer strips and adequate provision for their maintenance.
 - (2) Plans to mitigate adverse effects on wildlife and fisheries through means that at a minimum include, but are not limited to, design considerations, pollution-abatement practices, the timing of construction activities, and on-site or off-site habitat improvements or preservation.
- D. Terms and Conditions.** The Board may, as a term or condition of approval, establish any reasonable requirement to ensure that a developer has made adequate provision for the protection of wildlife and fisheries.
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STATUTORY AUTHORITY: 38 M.R.S.A., Section 343

EFFECTIVE DATE: November 1, 1979
Section 10 amended: November 21, 1989
Section 9 amended: June 12, 1991

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